

Attorney's Docket No.: 09857-003001

**OFFICIAL COMMUNICATION FACSIMILE:****OFFICIAL FAX NO: (571) 273-8300****RECEIVED  
CENTRAL FAX CENTER****FEB 27 2006**

Number of pages Including this page 34

Applicant : Thomas Apple et al.  
Serial No. : 08/736,143  
Filed : October 28, 1996Art Unit : 2672  
Examiner : Cashera, Antonio A.  
Petitions Attorney : Charlema R. Grant

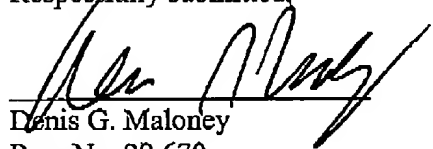
Title : MEDIA WALL FOR DISPLAYING FINANCIAL INFORMATION

**Petitions**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is a Request for Reconsideration of Decision to Deny Entry of Petition Pursuant to 37 CFR 1.47 dated January 31, 2006 along with Exhibits A-M, faxed this 27<sup>th</sup> day of February, 2006, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: February 27, 2006

  
Denis G. Maloney  
Reg. No. 29,670Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Fax: (617) 542-8906

21274491.doc

NOTE: This facsimile is intended for the addressee only and may contain privileged or confidential information. If you have received this facsimile in error, please immediately call us collect at (617) 542-5070 to arrange for its return. Thank you.

**RECEIVED  
CENTRAL FAX CENTER**

Attorney's Docket No.: 09857-003001

**FEB 27 2006****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Thomas Apple et al.                      Art Unit : 2672  
Serial No. : 08/736,143                                  Examiner : Caschera, Antonio A  
Filed : October 28, 1996                                  Petitions Attorney: Charlema R. Grant  
Title : MEDIA WALL FOR DISPLAYING FINANCIAL INFORMATION

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF DECISION TO DENY ENTRY OF PETITION  
PURSUANT TO 37 CFR 1.47 DATED JANUARY 31, 2006**

This is a request for reconsideration of the decision of the Petitions Attorney denying entry of a Petition by the co-inventors to make application on behalf of John Footen under Rule 47. On July 11, 1998, the US Patent and Trademark Office received this Petition. On January 31, 2006, the undersigned received a decision denying entry of the petition.

The stated reason for denial was that:

The instant petition does not satisfy requirements (1). As to item (I), Rule 47 applicant has failed to show that inventor Footen was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition and declaration in support of the petition indicates only the declaration pursuant to 37 CFR 1.63 was presented. To the extent the application papers (specification, including claims, drawings, and oath or declaration) were presented to the inventor, a statement to that effect should be provided.

Enclosed is a statement (Exhibit A) from Mr. E. Robert Yoches of Finnegan Henderson. Mr. Yoches was the attorney of record at the time the Rule 47 petition was filed. Mr. Yoches

**CERTIFICATE OF TRANSMISSION BY FACSIMILE**

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

Date of Transmission

Signature

Typed or Printed Name of Person Signing Certificate

Applicant : Thomas Apple et al.  
Serial No. : 08/736,143  
Filed : October 28, 1996  
Page : 2 of 5

Attorney's Docket No.: 09857-003001

statement attests to the fact that Mr. Yoches on at least two occasions prior to the Rule 47 filing presented or attempted to present Mr. Footen with the patent application (specification, including claims and drawings). The first occasion was to Mr. Footen directly and the second was to Mr. Apple who was instructed to have all of the inventors (including Mr. Footen) review the final application (specification, including claims and drawings) and sign the declaration.

Further, this statement indicates that it was Mr. Yoches customary and normal practice to send an inventor a complete copy of a patent application; declaration and specification, including claims and drawings, when requesting a signature on a declaration.

Rule 47 requires<sup>1</sup> that: "The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(g), and the last known address of the non-signing inventor." According to 409.03(d) Proof of Unavailability or Refusal, it is required that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). However, it is not required that the application papers (specification, including claims, drawings, and oath or declaration) need be presented at the last contact with the inventor. Since, Mr. Yoches presented Mr. Footen with the application papers on two prior occasions those presentations should be sufficient.

If the enclosed statement of Mr. Yoches is insufficient, please consider the following:

Due to the lapse of time between the original submission of the Petition under Rule 1.47 and the decision on that petition, nearly 9 years later, the rights of the assignee, The Nasdaq Stock Market may have been compromised. Accordingly, the undersigned contends that this request should be treated in the alternative, as a supplement to the original Petition and that this

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<sup>1</sup> § 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(g), and the last known address of the non-signing inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

Applicant : Thomas Apple et al.  
Serial No. : 08/736,143  
Filed : October 28, 1996  
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supplement together with the original petition should be granted, allowing the application to issue into a Patent based on the following:

1. During the fall of 1999, the undersigned was asked by Mr. Josh Wymard of The Nasdaq Stock Market to secure from the inventors assignments of the invention to Nasdaq.

2. While the undersigned was able find the co-inventors of Mr. Footen, the undersigned was not able to find Mr. Footen. Around early April 20 the undersigned hired a private investigator, Mr. Jim Landers, to track down Mr. Footen (Exhibit B).

3. Mr. Landers found Mr. Footen. The undersigned instructed Mr. Paul Speidel (a paralegal that had worked at Fish & Richardson P.C. at that time) to immediately contact Mr. Footen, to secure assignments and have Mr. Footen sign the Declaration and Power of Attorney. An e-mail (Exhibit C) from Mr. Paul Speidel to the undersigned summarized the efforts of Mr. Speidel made to contact Mr. Footen. It verifies that Fed Ex packages were delivered to Mr. Footen in July and October of 1999. Another e-mail (Exhibit D) sent on April 28, 2000 from Mr. Paul Speidel to Mr. Footen, attests to our continued efforts to try to locate Mr. Footen and get him to sign amongst other things the declaration.

4. Starting in May of 2000, in two e-mail messages (Exhibits E and F) Mr. Footen confirms that he is the correct individual and that he was out of the country. In those E-mails he invites us to send copies of the documents to him and his attorney, Mr. Rick Hedeman.

5. On June 23, 2000, the undersigned sent a letter (Exhibit G) to Mr. Footen, via Federal Express. This letter included a copy of the application and the declaration. The undersigned also sent a copy of the correspondence to his attorney, Mr. Rick Hedeman.

6. I, the undersigned, can state that the copy of the application included the specification, claims and drawings, as filed by the prior firm, along with the declaration. At the time we were satisfied that the package had been delivered to Mr. Footen at the address he gave us. All of those documents were sent to Mr. Footen and his attorney.

7. Subsequent to that time, we had Mr. Paul Nobel assign any rights that IMTECH had pursuant to its agreements with Mr. Footen in the invention to Nasdaq, since we concluded that Mr. Footen was not willing to return any of the materials sent to him. This is evidenced by a

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letter dated May 16, 2001 (Exhibit H) from Mr. Christopher Centurelli an associate attorney formerly at Fish & Richardson P.C.

8. Neither, I nor to the best of my knowledge, any individual at Fish & Richardson P.C., received any further communications from Mr. Footen or his attorney and neither individual returned the signed declaration or assignment.

9. In response to the above noted decision on this petition, the undersigned again sought to contact Mr. Footen.

10. Exhibits (I) are a packet of e-mails to Mr. Footen and his attorney, and Exhibits (J) are a packet of delivery receipts to the server account of Mr. Footen and Exhibits (K) are packets of delivery rejections to the e-mail accounts of Mr. Footen and Mr. Hedeman. The e-mails were to the original e-mail addresses used to contact Mr. Footen back in 2000. According to the receipts these addresses were no longer valid. These e-mails included electronic copies of the declaration and the application and assignments. These e-mails could not be delivered to either party, as evidenced by the failure notices.

11. On February 6, 2006, the undersigned again tried to contact Mr. Footen by sending a FEDEX package containing the paper copies of the declaration and the application and assignments, as evidenced by a letter (Exhibit L) from me to Mr. Footen, of the same date. The package was delivered by FEDEX, as evidenced by the detailed results of the track shipment obtained from FEDEX (Exhibit M).

12. To date Mr. Footen has not returned any of my requests to review the application and sign the declaration nor made any efforts to contact us.

Accordingly, petitioner contends that Mr. Footen, should be classified either as an inventor "who refuses to sign" by his pattern of ignoring multiple requests to review the contents of the application and sign the declaration, or as an inventor who cannot be located, since he did not give us any permanent address back in 2000 and has not made any efforts to contact us since May of 2000.

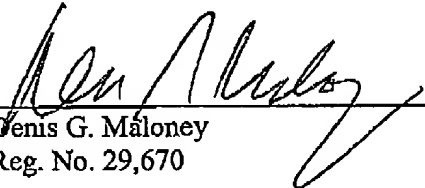
Applicant : Thomas Apple et al.  
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Filed : October 28, 1996  
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No fee is believed due. If a fee is due please apply that fee and any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 2/27/06

  
\_\_\_\_\_  
Denis G. Maloney  
Reg. No. 29,670

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

21268496.doc

## EXHIBIT A

Attorney's Docket No.: 09857-003001

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Thomas Apple et al.                      Art Unit : 2672  
Serial No. : 08/736,143                              Examiner : Blackman, A.  
Filed : October 28, 1996  
Title : MEDIA WALL FOR DISPLAYING FINANCIAL INFORMATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT OF ROBERT YOCHES

I, E. Robert Yoches, directed preparation of the Petition under 37 CFR 1.47 to allow the co-inventors of the subject application, to make application for patent on behalf of Mr. John Footen. In addition, I authored the letter of July 1, 1997 that asked Mr. Footen to sign a Declaration and Power of Attorney. This letter was attached to the Rule 47 petition sent to the US Patent and Trademark Office.

Earlier, on July 13, 1995 I sent Mr. Footen a letter (exhibit 1) that included a copy of the specification, claims and drawings, asking for his comments. Attached is an unsigned copy of that July 13, 1995, letter. This is the only copy of the letter that I was able to find, since I am not longer in possession of the physical file.

Subsequent to the July 13, 1995 letter, I sent a letter dated on Sept. 26, 1996 (exhibit 2) to Mr. Thomas Apple at IMTECH. Mr. Apple is one of the co-inventors of this application. In this Sept. 26, 1996 letter, I asked Mr. Apple to sign and date and have all of the other co-inventors sign and date the Declaration and Power of Attorney. Included with that letter of Sept. 26, 1996 was a copy application (specification, including claims and drawings). Mr. Footen was employed by IMTECH and thus Mr. Footen was presented with a copy of the application, prior to the submission under 37 CFR 1.47.

## CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date of Deposit

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Signature

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Typed or Printed Name of Person Signing Certificate

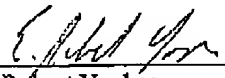
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I cannot recall specifically whether the July 1, 1997 included a copy of the application (specification, including claims and drawings), although I can state un-categorically that my usual practice was and still is to send a copy of the application to the inventor before asking the inventor to sign the Declaration and Power of Attorney according to 37 CFR 1.47.

Respectfully submitted,

Date: February 21, 2006

  
\_\_\_\_\_  
E. Robert Yoches  
Reg. No. 30,120

21270431.doc



EXHIBIT 1

(202) 408-4039

July 13, 1995

Mr. John Footen  
Project Director  
Imtech Corporation  
2 Stewart Court  
Denville, NJ 07834

Re: U.S. Patent Application  
For: MEDIA WALL FOR DISPLAYING  
FINANCIAL INFORMATION  
Our Reference: 03294.0027-000000

Dear John:

I am enclosing an updated draft of the application. Please let me have your comments and those of Andy Klein at your earliest convenience. When I receive them, I will place the application into final form for execution.

With best regards,

Sincerely,

E. Robert Yoches

ERY:pwl  
Enclosure

cc: Hugh F. Daniels, Esquire

## EXHIBIT 2

## FINNEGAN, HENDERSON, FARABOW, GARRETT &amp; DUNNER, L. L. P.

1300 I STREET, N.W.  
WASHINGTON, DC 20005-3315

202-408-4000  
FACSIMILE 202-408-4400

BRUSSELS OFFICE:  
AVENUE LOUISE 326, BOX 37  
1050 BRUSSELS, BELGIUM  
TELEPHONE 011-322-646-0363  
FACSIMILE 011-322-646-2135

E. ROBERT YOCHES  
202-408-4030

TOKYO OFFICE:  
TORANOMON NO. 43 MORI BUILDING  
1-5, TORANOMON 5-CHOME  
MINATO-KU, TOKYO 105, JAPAN  
TELEPHONE 011-813-3431-8943  
FACSIMILE 011-813-3431-6945

September 26, 1996

Mr. Thomas Apple  
IMTECH  
2 Stewart Court  
Denville, NJ 07834

VIA FEDERAL EXPRESS

Re: Video Wall Disclosure  
Our Reference: 03294-0027-00000

Dear Tom:

Enclosed please find the final application along with the Declaration and Power Attorney.

Please review the application for accuracy and completeness and have the other inventors do so as well. If there are minor changes, all the inventors should initial and date the change in the margin. If there are substantial changes, please let me know and I will send you a new one.

After each inventor completes their review, please have them sign and date the Declaration and Power of Attorney. Paul should also complete the information regarding his address.

When all inventors have signed the declaration, please return it to me along with the application for filing.

With best regards,

Sincerely,



E. Robert Yoches

ERY:pwl  
Enclosure

cc: Mr. Hugh Daniels

**Denis Maloney**

---

**From:** Landers Report [jlander@tiac.net]  
**Sent:** Thursday, April 20, 2000 12:58 PM  
**To:** Atty Denis G. Maloney  
**Subject:** NASDAQ Witnesses Investigation

Mr. Maloney,

This message comes to you because I have just learned that Kathy Discullo is no longer with your firm. Our office had been exchanging email messages with her and I am concerned over the passage of time and delays in starting our investigation into finding NASDAQ witnesses. Mr. Hleken gave me your name.

**STATUS:**

- 1) On February 25, 2000 I quoted \$1,050.00 as a fee to search for seven (7) witnesses. That included one witness somewhere in Israel.
- 2) I also quoted a lesser fee of \$525.00 for the United States witnesses if the social security numbers could be supplied. (we are able to obtain them if needed. There are no socials in Israel, that will be special.)
- 3) On March 3, 2000, I asked Kathy by email for a status on the requested pending investigation and was advised that NASDAQ was searching for social security numbers.
- 4) On March 17, 2000, I asked Kathy by email if the time lost might harm the case progress. Kathy emailed that the client was still searching for social security numbers.
- 5) On April 11, 2000 I sent a message to Kathy again by email, this time with no response.

Today, April 20, 2000, I called your firm and learned that Discullo had left.

The names of the witnesses are:

Pamela Sweet  
Michael Waldo  
Deane Coords  
Maureen Franke  
John Footen  
Robert N. Relss  
Ira Slomowitz ( corrected: Schlomovitz)

If you wish to go straight ahead with the investigation, please reply. We can use a social security number for John Footen if NASDAQ has one for him.

Very truly yours,  
Jim Landers

Landers Service Company, Private Investigation  
30 High Street, Milton, (Boston) MA 02186 USA  
bus (617) 698-0011 fax (617) 698-1409  
jlander@tiac.net www.lsc-pi.com  
\*\*Licensed Private Detectives Association of Massachusetts  
\*\*New England Council of State Investigator Associations  
\*\*Global Investigators Network

2/16/2006

## EXHIBIT C

**Denis Maloney**

---

**From:** Paul Speidel  
**Sent:** Monday, April 24, 2000 3:17 PM  
**To:** Marie Collins; Denis Maloney  
**Cc:** Paul Speidel  
**Subject:** NASDAQ Assignments

Denis & Marie:

Just to recap what's outstanding. There are three applications in which some assignments are still outstanding: the 004002, 003001, and 005001 F&R matters.

**The 004002 Matter:**

Robert Riess (his last name was previously mis-spelled)  
9928 Kentsdale Drive  
Potomac, MD 20854

**The 003001 Matter:**

Assignments to the 4 inventors were sent to them by FEDEX on 10/4/99 (Apple, Footen, Klein) and 7/14/99 (Noble). I couldn't find a recordation of assignment for any of these four in the prosecution file - Marie, could you double-check this file? I want to verify that F&R doesn't have the assignments somewhere else before calling the inventors or Josh. I think I gave the file back to you last week.

I checked with Fedex and discovered that the packages were signed for & accepted at the addresses we used to send the Apple, Footen, and Noble assignments back in July and October of '99.

Our P.I. discovered that Footen is out of the country for a while but his father agreed to accept mail from us. When I get the PI's final report I'll talk with Denis to determine what address should be filed with the PTO.

**The 005001 Matter:**

Signed originals of the following assignments are in a manila folder with the prosecution file (in my office):

Martyn  
DeNat  
Geberth Hall  
Pang  
Flynn

I recently received the following address for Maureen Franke:  
Maureen Franke  
137 Praise Dog Drive  
Louisburg, NC 27549  
252-478-9017

We're still waiting for the PI's final report re the remaining 005001 inventors:

Sweet  
Schlomowitz  
Waldo  
Coords

\*I've called Ms. Sweet but the phone just rings and rings. I left a message with Mr. Coords to call me back. I'll call Schlomowitz tomorrow in Israel when the time difference makes it more likely that he'll be awake. Waldo is listed at the same address we currently have for him, but his phone no. is unlisted.

Paul

EXHIBIT D

**Denis Maloney**

---

**From:** Paul Speidel  
**Sent:** Friday, April 28, 2000 11:03 AM  
**To:** 'Jfooten@cs.com'  
**Cc:** Paul Speidel; Denis Maloney  
**Subject:** Patent Work

Mr. Footen:

My name is Paul Speidel and I am working with Denis Maloney, a principal at the intellectual property law firm of Fish & Richardson, on a patent application for NASDAQ. According to our research, back in the mid '90's you were working for IMTech on a project for NASDAQ. NASDAQ subsequently filed a patent application and you were one of the named inventors. We as well as a prior law firm have been trying to locate you for a number of years to obtain your signature on a declaration/power of attorney, and assignment of the invention, in accordance with IMTech's contract with NASDAQ.

We briefly spoke with your father, and he indicated that you were the correct John Footen. He also stated you have been out of the country for some time. Please advise us if you did work on this project and how we can obtain your signatures on these documents. Thank you for your assistance in this matter.

Sincerely,

Paul Speidel

## EXHIBIT E

**Denis Maloney**

---

**From:** JFooten@cs.com  
**Sent:** Sunday, May 14, 2000 9:57 AM  
**To:** speidel@fr.com; hedeman@erols.com  
**Cc:** maloney@fr.com  
**Subject:** Re: Patent Work re NASDAQ

In a message dated 5/12/00 12:05:10 AM Singapore Standard Time, speidel@fr.com writes:

<< Mr. Maloney, the attorney I am working with regarding the Nasdaq patent application, asked me to convey a request. Could you please provide an address of your permanent residence. This address must be listed on the documents which will later be forwarded to the US Patent Office. Once we have this address, we will forward the documents to you for your signature. Copies of the documents will also be sent to Mr. Hedeman. Thank you for your assistance in this matter. Please direct your reply to Mr. Maloney and me at the following email addresses:

Maloney@fr.com  
Speidel@fr.com  
>>

The address you should use for this is:

69 Freedom Terrace  
Easton, PA 18045

Please do send a copy to both Mr. Hedeman and myself.

EXHIBIT F

**Denis Maloney**

---

From: JFooten@cs.com  
Sent: Sunday, April 30, 2000 7:37 AM  
To: speidel@fr.com; hedeman@erols.com  
Cc: maloney@fr.com  
Subject: Re: Patent Work

I am the correct John Footen, and I did work on the NASDAQ project. Please forward all relevant documents for my review to:

John Footen  
69 Freedom Terrace  
Easton, PA 18045

All mail will be forwarded from there to wherever I am. Since it has been some time since I worked on this, I would appreciate your forwarding all supporting documentation showing the necessity of my signing these documents as well.

For your information, my attorney is also copied on this email and will be reviewing all documents before I sign.

Please send a second copy of all documents to him at:

Rick Hedeman  
89 Headquarters Plaza  
North Tower, 14th Floor  
Morristown, NJ 07960

I look forward to receiving your mail and apologize for any difficulty you have had in locating me as I am, indeed, out of the United States.

In a message dated 4/28/00 11:08:13 PM Singapore Standard Time, speidel@fr.com writes:

<< Mr. Footen:

My name is Paul Speidel and I am working with Denis Maloney, a principal at the intellectual property law firm of Fish & Richardson, on a patent application for NASDAQ. According to our research, back in the mid '90's you were working for IMTech on a project for NASDAQ.

NASDAQ subsequently filed a patent application and you were one of the named inventors. We as well as a prior law firm have been trying to locate you for a number of years to obtain your signature on a declaration/power of attorney, and assignment of the invention, in accordance with IMTech's contract with NASDAQ.

We briefly spoke with your father, and he indicated that you were the correct John Footen. He also stated you have been out of the country for some time. Please advise us if you did work on this project and how we can obtain your signatures on these documents. Thank you for your assistance in this matter.

Sincerely,

Paul Speidel

>>

EXHIBIT G

## FISH &amp; RICHARDSON P.C.

Frederick P. Fish  
1855-1930W.K. Richardson  
1859-1951225 Franklin Street  
Boston, Massachusetts  
02110-2804Telephone  
617 542-5070Facsimile  
617 542-8906Web Site  
www.fr.com

June 23, 2000

VIA FEDERAL EXPRESS

BOSTON  
DALLAS  
DELAWARE  
NEW YORK  
SAN DIEGO  
SILICON VALLEY  
TWIN CITIES  
WASHINGTON, DCMr. John Footen  
69 Freedom Terrace  
Easton, PA 18045Re: Media Wall for Displaying Financial Info  
Our Ref.: 09857-003001

Dear Mr. Footen:

Enclosed please find a copy of an assignment of US Patent Application Serial No. 08/736.143 from yourself to The Nasdaq Stock Market, Inc.

As you may recall, you were named as an inventor on an application that was filed in October 26, 1996 entitled "Media Wall for Displaying Financial Information." I have enclosed for your review a copy of the application and a copy of the declaration of inventorship you signed. According to our records you never executed the "COMBINED DECLARATION AND POWER OF ATTORNEY" for this case. I have also enclosed a copy of this document for your signature.

At the time the application was filed, the firm that represented NASDAQ never secured an assignment of the application to Nasdaq. Nasdaq owns the rights in this application by virtue of your employment with Imtech and Imtech's agreement with Nasdaq. I have enclosed a copy of a Power of Attorney that you had signed appointing Paul Nobel to assign rights to Imtech. We are requesting that you assign the rights in this application directly to Nasdaq.

I would request, therefore, that you complete the declaration and the assignment and return them to me by express mail. In order to expedite this, I have enclosed a prepaid FedEx envelope addressed to my firm.

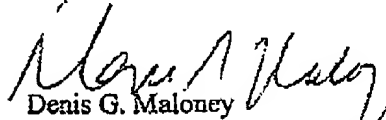
The Assignment form should be signed and dated (at the green flag) in the presence of a Notary Public who, in turn, should sign and apply his/her seal (at the blue flag). We will reimburse you for any reasonable expenses that you may incur in connection with sending us the assignment.



Mr. John Footen  
June 23, 2000  
Page 2

If you have any questions I may be reached at 617-521-7821 or you may call Josh Wymard at NASDAQ at 202-728-8128. A copy of this package is being forwarded to your attorney. A prompt reply would be appreciated. Thank you for your cooperation in this matter.

Very truly yours,

  
Denis G. Maloney

cc: Rick Hedeman, Esq  
89 Headquarters Plaza  
North Tower, 14th Floor  
Morristown, NJ 07960

Josh Wymard, Esq. The Nasdaq Stock Market, Inc.

Enclosure  
20086614.doc

EXHIBIT H

FISH & RICHARDSON P. A.

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1991

225 Franklin Street  
Boston, Massachusetts  
02110-2803

Telephone  
617 542-5070

Facsimile  
617 542-8906

Web Site  
www.fr.com

May 16, 2001

Paul Noble  
Imtech Corporation  
Two Steward Court  
Denville, New Jersey 07834

Re: Media Wall for Displaying Financial Info  
Our Ref.: 09857-003001

Dear Paul:

Enclosed please find an assignment from yourself, and yourself on behalf of John Footen to Imtech Corporation. As we discussed via voice mail messages, the assignment you executed on April 18, 2001 incorrectly identified Imtech Corporation as Imtech Inc.

This assignment should be signed and dated by you (at the green flags) in the presence of a Notary Public, who, in turn should sign and apply his or her seal (at the orange flag). Please return the original to me at your earliest convenience. In order to expedite this matter, I enclose a FedEx envelope addressed to me and indicating that our account be billed.

Thank you for your assistance in this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,



Christopher Centurelli

30262791.doc

BOSTON  
DALLAS  
DELAWARE  
NEW YORK  
SAN DIEGO  
SILICON VALLEY  
TWIN CITIES  
WASHINGTON, DC

## EXHIBIT I

**Denis Maloney**

---

**From:** Denis Maloney  
**Sent:** Monday, February 06, 2006 10:55 AM  
**To:** JFooten@cs.com; hedeman@erols.com; Denis Maloney  
**Cc:** Denis Maloney; Wymard, Josh; Marie Collins  
**Subject:** RE: Patent Work

**Importance:** High  
**Sensitivity:** Confidential

**Attachments:** 09857-003001 declaration.pdf; 09857-003001 app.pdf; 09857\_003001 figs.pdf; 09857\_footen ltr dgm.pdf



09857-003001  
declaration.pdf (...)



09857-003001  
app.pdf (6 MB)



09857\_003001  
figs.pdf (6 MB)



09857\_footen ltr  
dgm.pdf (271 ...)

Dear Mr. Footen,

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This application involved work performed by you and others for your prior employer, IMTECH performed under contract to Nasdaq.

I have included your attorney on this e-mail, but I am not certain that the address for your attorney is still correct.

I have attached to this E-mail a declaration and power of attorney (file 09857\_003001 declaration.pdf); a copy of the application (file 09857-003001 app.pdf) a copy of figures (file 09857\_003001 figs.pdf) and a copy of my June 23, 2000 letter (file 09857\_footen ltr dgm.pdf).

I would request that you review and sign the declaration and power of attorney attached to this E-mail and return the declaration and power of attorney to me either via facsimile, or a scanned copy via e-mail, or postal.

We will also be sending these materials via Federal Express to the address below, which according to public records is still a correct address.

If you return via postal, we will assume any incidental expenses necessary to send the declaration back to us, upon presentation of a bill for such expenses.

IF you have any questions please contact me as indicated below. Thank you for your cooperation in this matter.

Denis G. Maloney, Esq.  
Principal  
Fish & Richardson P.C.  
225 Franklin St.  
Boston MA. 02110  
direct 617-521-7821  
fax 617-542-8906  
Main No. 617-542-5070  
E-mail Maloney@fr.com

-----Original Message-----

From: JFooten@cs.com [mailto:JFooten@cs.com]  
Sent: Sunday, April 30, 2000 7:37 AM

To: speidel@fr.com; hedeman@erols.com  
Cc: maloney@fr.com  
Subject: Re: Patent Work

I am the correct John Footen, and I did work on the NASDAQ project. Please forward all relevant documents for my review to:

John Footen  
69 Freedom Terrace  
Easton, PA 18045

All mail will be forwarded from there to wherever I am. Since it has been some time since I worked on this, I would appreciate your forwarding all supporting documentation showing the necessity of my signing these documents as well.

For your information, my attorney is also copied on this email and will be reviewing all documents before I sign.

Please send a second copy of all documents to him at:

Rick Hedeman  
89 Headquarters Plaza  
North Tower, 14th Floor  
Morristown, NJ 07960

I look forward to receiving your mail and apologize for any difficulty you have had in locating me as I am, indeed, out of the United States.

In a message dated 4/28/00 11:08:13 PM Singapore Standard Time, speidel@fr.com writes:

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NASDAQ subsequently filed a patent application and you were one of the named inventors. We as well as a prior law firm have been trying to locate you for a number of years to obtain your signature on a declaration/power of attorney, and assignment of the invention, in accordance with IMTech's contract with NASDAQ.

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Sincerely,

Paul Speidel

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**Denis Maloney**

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**From:** Denis Maloney  
**Sent:** Thursday, February 09, 2006 5:37 PM  
**To:** 'JFooten@cs.com'; 'hedeman@erols.com'  
**Cc:** 'Josh.Wymard@nasdaq.com'  
**Subject:** FW: Patent Work

**Importance:** High  
**Sensitivity:** Confidential

**Attachments:** 09857-003001 declaration.pdf; 09857\_footen ltr dgm.pdf



09857-003001 declaration.pdf (...



09857\_footen ltr dgm.pdf (271 ...

Mr. Footen,  
I am resending this E-mail with the declaration and the letter.

Please contact me at the number below.

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**Sent:** Monday, February 06, 2006 10:55 AM  
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**To:** 'JFooten@cs.com'; 'hedeman@erols.com'  
**Cc:** 'Josh.Wymard@nasdaq.com'  
**Subject:** FW: Patent Work

**Importance:** High  
**Sensitivity:** Confidential

**Attachments:** 09857-003001 app.pdf



09857-003001  
app.pdf (6 MB)

This E-mail contains the application

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**Denis Maloney**

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**Sent:** Thursday, February 09, 2006 5:40 PM  
**To:** 'JFooten@cs.com'; 'hedeman@erols.com'  
**Cc:** 'Josh.Wymard@nasdaq.com'  
**Subject:** FW: Patent Work

**Importance:** High  
**Sensitivity:** Confidential

**Attachments:** 09857\_003001 figs.pdf



09857\_003001  
figs.pdf (5 MB)

This contains the figures.

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Sincerely,

Paul Speidel

>>

EXHIBIT J

**Denis Maloney**

---

**From:** Cluster Services Account  
**Sent:** Thursday, February 09, 2006 5:40 PM  
**To:** Denis Maloney  
**Subject:** Delivery Status Notification (Relay)  
  
**Attachments:** ATT5714131.txt; FW: Patent Work



ATT5714131.txt FW: Patent Work  
(419 B)

This is an automatically generated Delivery Status Notification.

Your message has been successfully relayed to the following recipients, but the requested delivery status notifications may not be generated by the destination.

JFooten@cs.com

**Denis Maloney**

---

**From:** Cluster Services Account  
**Sent:** Thursday, February 09, 2006 5:40 PM  
**To:** Denis Maloney  
**Subject:** Delivery Status Notification (Relay)

**Attachments:** ATT5714103.txt; FW: Patent Work



ATT5714103.txt FW: Patent Work  
(419 B)

This is an automatically generated Delivery Status Notification.

Your message has been successfully relayed to the following recipients, but the requested delivery status notifications may not be generated by the destination.

JFooten@cs.com

## EXHIBIT K

**Denis Maloney**

---

**From:** System Administrator  
**To:** jfooten@cs.com  
**Sent:** Thursday, February 09, 2006 5:40 PM  
**Subject:** Undeliverable:Returned mail: User unknown

Your message did not reach some or all of the intended recipients.

**Subject:** FW: Patent Work  
**Sent:** 2/9/2006 5:39 PM

The following recipient(s) could not be reached:

jfooten@cs.com on 2/9/2006 5:40 PM

The e-mail account does not exist at the organization this message was sent to. Check the e-mail address, or contact the recipient directly to find out the correct address.

< rly-yd02.mx.aol.com #5.1.1 SMTP; 550 MAILBOX NOT FOUND>

**Denis Maloney**

---

From: System Administrator  
To: jfooten@cs.com  
Sent: Thursday, February 09, 2006 5:41 PM  
Subject: Undeliverable:Returned mail: User unknown

Your message did not reach some or all of the intended recipients.

Subject: FW: Patent Work  
Sent: 2/9/2006 5:40 PM

The following recipient(s) could not be reached:

jfooten@cs.com on 2/9/2006 5:41 PM  
The e-mail account does not exist at the organization this message was sent to. Check the e-mail address, or contact the recipient directly to find out the correct address.  
< rly-yd02.mx.aol.com #5.1.1 SMTP; 550 MAILBOX NOT FOUND>

**Denis Maloney**

---

**From:** System Administrator  
**To:** hedeman@erols.com  
**Sent:** Thursday, February 09, 2006 5:40 PM  
**Subject:** Undeliverable:FW: Patent Work

Your message did not reach some or all of the intended recipients.

**Subject:** FW: Patent Work  
**Sent:** 2/9/2006 5:40 PM

The following recipient(s) could not be reached:

hedeman@erols.com on 2/9/2006 5:40 PM

There was a SMTP communication problem with the recipient's email server. Please contact your system administrator.  
<BOSMAIL3.frdomain.fr.com #5.5.0 smtp;501 #5.1.1 bad address hedeman@erols.com>

EXHIBIT L

## FISH &amp; RICHARDSON P.C.

Frederick P. Fish  
1855-1930W.K. Richardson  
1859-1951VIA FEDERAL EXPRESS225 Franklin Street  
Boston, Massachusetts  
02110-2804Telephone  
617 542-5070Facsimile  
617 542-8906Web Site  
www.fr.com

February 6, 2006

Mr. John Footen  
69 Freedom Terrace  
Easton, PA 18045Re: Media Wall for Displaying Financial Info  
Our Ref.: 09857-003001

Dear Mr. Footen:

You may my letter to you dated June 23, 2000 (enclosed). We are attempting again to secure your signature on a declaration and power of attorney for a patent application that was filed for The Nasdaq Stock Market back in 1996. In my June 23, 2000 letter we had enclosed a declaration & power of attorney for your signature and the patent application. We never received any signed documents from you.


This application involved work performed by you and others for your prior employer, IMTECH performed under contract to Nasdaq.

I had attempted to send these materials via e-mail at the e-mail addresses I had for you and your attorney but neither of these e-mail addresses worked. (See enclosed e-mail.)

Enclosed for your signature is a Combined Declaration and Power of Attorney which you should sign exactly as typed. Also enclosed is an Assignment. It is not necessary to use a Notary for these documents. Also enclosed are a copy of the application, a copy of figures and a copy of my June 23, 2000 letter.

We look forward to receipt of the signed formal documents. We request that you review and sign the declaration and power of attorney and the assignment and return the them to us either via facsimile, or a scanned copy via e-mail, or postal. If you return via postal, we will assume any incidental expenses necessary to send the declaration back to us, upon presentation of a bill for such expenses.

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ATLANTA  
AUSTIN  
BOSTON  
DALLAS  
DELAWARE  
NEW YORK  
SAN DIEGO  
SILICON VALLEY  
TWIN CITIES  
WASHINGTON, DC



FISH & RICHARDSON P.C.

Mr. John Footen  
February 6, 2006  
Page 2

Thank you for your cooperation in this matter.

Very truly yours,



Denis G. Maloney

21261094.doc

cc: Josh Wymard, Esq. The Nasdaq Stock Market, Inc.

# BEST AVAILABLE COPY

FEB. 27. 2006. 1:54PM

(1) FISH & RICHARDSON 6175428906

NO. 1856 P. 34

FedEx | Track

[http://www.fedex.com/Tracking/Detail?trk\\_start\\_url=&totalPieceN...](http://www.fedex.com/Tracking/Detail?trk_start_url=&totalPieceN...)

EXHIBIT M

Track Shipments  
Detailed Results

 [Quick Help](#)

Tracking number	835015071609	Reference	09857-003001
Signed for by	Signature release on file	Delivered to	Residence
Ship date	Feb 6, 2006	Service type	Standard Pak
Delivery date	Feb 7, 2006 10:59 AM	Weight	1.0 lbs.
Status	Delivered		

Date/Time	Activity	Location	Details
Feb 7, 2006 10:59 AM	Delivered		Left at front door. Package delivered to recipient address - release authorized
7:55 AM	On FedEx vehicle for delivery	BETHLEHEM, PA	
6:57 AM	At local FedEx facility	BETHLEHEM, PA	
4:15 AM	Departed FedEx location	NEWARK, NJ	
Feb 6, 2006 9:18 PM	Left origin	SOUTH BOSTON, MA	
4:38 PM	Picked up	SOUTH BOSTON, MA	

[Signature strip](#) [Email alerts](#) [Track mobile phone](#)

Subscribe to tracking updates (optional)

Your Name:

Your Email Address:

Email address	Language	Exception updates	Delivery updates
<input type="text"/>	English	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	English	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	English	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	English	<input type="checkbox"/>	<input type="checkbox"/>

Select format: ☒ HTML ☐ Text ☐ Wireless

Add personal message:

Not available for Wireless or non-English characters.